

CLOSED CAPTIONING

Background

Closed captioning is an assistive technology designed to provide access to television for persons with hearing disabilities. Through captioning, the audio portion of programming is displayed as text superimposed over the video. In 1990, Congress first required television receivers to contain circuitry designed to decode and display closed captioning. As of July 1993, the Commission has required that all analog television sets with screens 13 inches or larger sold in the United States contain built-in decoder circuitry that allows viewers to display closed captions. Beginning July 1, 2002, the Commission also required that digital television (DTV) receivers include closed caption display capability.

As part of the Telecommunications Act of 1996, Congress instructed the Commission to require video program distributors (cable operators, broadcasters, satellite distributors and other multi-channel video programming distributors) to phase in closed captioning of their television programs. In 1997, the FCC implemented rules to provide a transition schedule for video program distributors to follow in providing more captioned programming. The rules require that distributors provide an increasing amount of captioned programming according to a set schedule.

Benefits of Closed Captioning

Closed captions provide a critical link to news, entertainment, and information for individuals who are deaf and hard of hearing, enabling these individuals to be part of the cultural mainstream of our society. For individuals whose native language is not English, English language captions have also been used to improve comprehension and fluency in this language. In addition, studies have shown that captions have helped children learn to read, and have improved literacy skills. Viewers may select to watch closed captions through their remote controls or on-screen displays. The FCC does not require captioning of home videos or video games.

New Programming

All English language programming prepared or formatted for display on analog television and first shown on or after January 1, 1998, as well as programming prepared or formatted for display on digital television that was first published or exhibited after July 1, 2002 ("digital programming"), is considered "New Programming," and must be captioned according to benchmarks set by the FCC. The following benchmarks establish how much "New Programming" must be captioned each calendar quarter:

January 1, 2000 to December 31, 2001: 450 hours of programming per channel per quarter
January 1, 2002 to December 31, 2003: 900 hours of programming per channel per quarter
January 1, 2004 to December 31, 2005: 1350 hours of programming per channel per quarter
January 1, 2006 and thereafter: 100% of all programming, with some exemptions



Pre-Rule Programming

Analog programming first shown before January 1, 1998 and digital programming first shown before July 1, 2002, is called "Pre-Rule Programming." Pre-Rule Programming must be captioned as follows:

January 1, 2003 to December 31, 2007: 30% of programming per channel per quarter
 January 1, 2008 and thereafter: 75% of programming per channel per quarter

Spanish Language Programming

Because captioning is fairly new to Spanish language program providers, the FCC has provided a longer time period for compliance by these programmers. All new Spanish language programming that was first shown after January 1, 1998, must be captioned by 2010. The following schedule applies to Spanish language "New Programming" shown after January 1, 1998:

January 1, 2001 to December 31, 2003: 450 hours of programming per channel per quarter
 January 1, 2004 to December 31, 2006: 900 hours of programming per channel per quarter
 January 1, 2007 to December 31, 2009: 1350 hours of programming per channel per quarter
 January 1, 2010 and thereafter: 100% of all programming, with some exemptions

For Spanish language "Pre-Rule Programming" first shown before January 1, 1998, the following schedule applies:

January 1, 2005 to December 31, 2011: 30% of programming per channel per quarter
 January 1, 2012 and thereafter: 75% of programming per channel per quarter

Exemptions

There are some exemptions to the above captioning requirements (for both English and Spanish language programming). Examples include but are not limited to the following:

- most programs which are shown between 2 a.m. and 6 a.m. local time;
- locally produced and distributed non-news programming with no repeat value (e.g., parades and school sports);
- commercials that are no more than five minutes long;
- instructional programming that is locally produced by public television stations for use in grades K-12 and post secondary schools (only covers programming narrowly distributed to individual educational institutions);
- programs in languages other than English or Spanish;
- programs shown on new networks for the first four years of the network's operations;
- public service announcements and promotional announcements that are shorter than 10 minutes, unless they are federally-funded or produced; and
- programming provided by program providers with annual gross revenues under \$3 million (although such programmers must pass through video programming that has already been captioned).



In addition, a video programming provider or distributor may file with the FCC a petition for an exemption for specific programming if supplying captions for that programming would result in an undue burden for the provider or distributor.

Real-time vs. Electronic Newsroom Technique

Real-time captioning typically uses stenographers to convert the entire audio portion of a live program to captions. Electronic Newsroom Technique (ENT) creates captions from a news script computer or teleprompter used for live newscasts. Because only material that is scripted can be captioned with ENT, breaking news, sports and weather updates, and live field reports are typically not captioned when ENT is used. As of January 1, 2000, FCC rules do not permit the four major national broadcast networks (ABC, CBS, Fox, and NBC) or their affiliates in the top 25 television markets, or national non-broadcast networks (e.g., cable) serving at least 50% of the total number of households subscribing to video programming services, to count live news programming using ENT toward their captioning requirements. Rather, these networks and affiliates must provide real-time captioning for live news programming in order to meet the FCC's captioning benchmarks. Other programming distributors and providers, however, are permitted to use ENT for live programming to meet the captioning mandates.

Complaints

If you have a complaint for failure to provide closed captioning during *non-emergency programming*, FCC rules require that you first try to resolve your complaint with your video programming provider. Your complaint must be in writing, provide the specifics and evidence of the alleged violation, and be filed no later than the end of the calendar quarter following the calendar quarter in which the alleged violation occurred. For example, if the alleged violation occurred on May 1, 2003, your complaint must be filed by September 30, 2003. The video programming provider must respond in writing to your complaint within 45 days after the end of the calendar quarter in which the alleged violation occurred or 45 days after receipt of your written complaint, whichever is later.

Your complaint should include:

- the name of the video programming distributor against whom the complaint is alleged;
- the date and time of the alleged violation; and
- details about the problem so that the distributor may correct or otherwise respond to the complaint.

You should also include the name of the programmer (e.g., News Channel 13) in addition to the name of the distributor (e.g., ACME Cable of Maplewood).

You may send a copy of your complaint to the FCC, Consumer & Governmental Affairs Bureau (CGB), 445 12th Street, SW, Washington, DC 20554, or via facsimile transmission 202-418-0232; or e-mail fccinfo@fcc.gov; or the Internet www.fcc.gov/cgb/complaints.html.

If a video programming distributor fails to respond to a complaint or a dispute remains following the initial complaint resolution procedures, a complaint may be filed directly with the FCC as indicated



above within 30 days after the time allotted for the video programming distributor to respond has ended. An original and two copies of the complaint and all subsequent pleadings must be filed. The complaint must contain evidence that demonstrates the alleged violation of the closed captioning requirements and must certify that a copy of the complaint and the supporting evidence was first directed to the video programming distributor. A copy of the complaint and any supporting documentation must be mailed to the video programming distributor.

The FCC will review the complaint, including all supporting evidence, and determine whether a violation has occurred. The FCC may, as needed, request additional information from the video programming provider. If the FCC finds that a violation has occurred, penalties may be imposed, including a requirement that the video programming distributor deliver video programming containing closed captioning in a future time period.

Emergency Programming

The FCC also has specific rules requiring that all video programming distributors that elect to provide emergency information do so in a format that is accessible to people who are deaf or hard of hearing, or blind or have low vision. Emergency information is information that helps to protect life, health, safety, or property. Examples include, but are not limited to, hazardous weather situations such as tornadoes, heavy snows, hurricanes and earthquakes, and dangerous community situations such as the discharge of toxic gases, widespread power failures, civil disorders, and school closings.

In order to provide access, emergency information that is provided in the audio portion of the programming must be provided using closed captioning or other methods of visual presentation, such as open captioning, crawls, or scrolls that appear on the screen. Where emergency information is provided by a means other than closed captioning, it must not block any closed captioning, and closed captioning should not block any emergency information provided by means other than closed captioning. The information provided visually must include critical details regarding the emergency and how to respond. The FCC's rules on emergency programming are effective for all such programming (*i.e.*, there is no phase-in period for implementation and there are no exemptions).

If you have a complaint alleging a violation of the FCC's *emergency information access* rules, you may send your complaint to the FCC by letter, facsimile transmission, telephone, the Internet, audio-cassette recording, Braille, or some other method that would best accommodate you. Send your complaint to the FCC, Consumer & Governmental Affairs Bureau (CGB), 445 12th Street, SW, Washington, DC 20554, or via fax 202-418-0232; phone 1-888-CALL-FCC (1-888-225-5322) voice or 1-888-TELL-FCC (1-888-835-5322) TTY; e-mail (fccinfo@fcc.gov); or the Internet (www.fcc.gov/cgb/complaints.html).



Your complaint should include the name of the video programming distributor against whom the complaint is alleged, the date and time of the omission of emergency information, and the type of emergency. The FCC will notify the video programming distributor of the complaint, and the distributor must reply to your complaint within 30 days.

For more information on the FCC's captioning rules and requirements, go to www.fcc.gov/cgb/dro/caption.html. You can also view CGB's Accessibility of Emergency Video Programming to Persons with Hearing and Visual Disabilities fact sheet at www.fcc.gov/cgb/consumerfacts/emergencyvideo.html for additional information on closed captioning.

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